

★ MAY 15 2018 ★

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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DAVONTE PRESSLEY,

Plaintiff,

**REPORT & RECOMMENDATION
18 CV 514 (KAM)(LB)**

-against-

THE CITY OF NEW YORK; PETER CHIOFOLO;
MIGUEL GONZALEZ; and JOHN DOES 1-10,

Defendants.
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BLOOM, United States Magistrate Judge:

Plaintiff commenced this action on January 24, 2018. ECF No. 1. The Federal Rules of Civil

Procedure provide that:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Fed. R. Civ. P. 4(m). Under Rule 4(m), plaintiff was required to serve defendants with the complaint and summons by April 24, 2018.

By Order dated May 1, 2018, I warned plaintiff that if he failed to file proof that defendants were timely served with process or show good cause why they were not timely served, I would recommend that this action should be dismissed without prejudice pursuant to Rule 4(m). ECF No. 5. Plaintiff failed to comply with the Court's Order. As of the date of this Report, the Court's record does not reflect that plaintiff has served defendants. Because plaintiff has failed to file proof of service or show good cause why service was not timely effected on defendants, it is respectfully recommended that plaintiff's action should be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

FILING OF OBJECTIONS TO THIS REPORT AND RECOMMENDATION

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b)(2) of the Federal Rules of Civil Procedure, the parties shall have fourteen (14) days from service of this Report to file written objections. See also Fed.

R. Civ. P. 6. Such objections (and any responses to objections) shall be filed with the Clerk of the Court. Any request for an extension of time to file objections must be made within the fourteen-day period. Failure to file a timely objection to this Report generally waives any further judicial review. Marcella v. Capital Dist. Physicians' Health Plan, Inc., 293 F.3d 42, 46 (2d Cir. 2002); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989); see Thomas v. Arn, 474 U.S. 140 (1985).

SO ORDERED.

/S/ Judge Lois Bloom

LOIS BLOOM

United States Magistrate Judge

Dated: May 15, 2018
Brooklyn, New York